

**Document:** Proposed Rule, **Register Page Number:** 29 IR 1596

**Source:** February 1, 2006, Indiana Register, Volume 29, Number 5

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## **TITLE 45 DEPARTMENT OF STATE REVENUE**

### **Proposed Rule** LSA Document #05-359

#### **DIGEST**

Adds 45 IAC 20 to implement a quality assessment on health facilities that are not Medicaid-enrolled nursing facility providers.  
*NOTE: This document is jointly promulgated with the Office of the Secretary of Family and Social Services. See LSA Document #05-112, SECTION 6, printed at 29 IR 1731. Effective 30 days after filing with the Secretary of State.*

#### **IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses**

There are a total of eight health facilities that are not Medicaid-enrolled nursing facility providers that are impacted by this rule. At least three of them do not meet the definition of small business under IC 4-22-2-28.1. All of the health facilities will be required to complete a one page data collection form on an annual basis. The information collected will be used to calculate the quality assessment. Completion of the form is not expected to impose a significant burden on small businesses because the information requested is not extensive or difficult to obtain from records kept in the normal course of business. For this reason, it is expected that completion of the form will not require a business to incur any additional costs. Completion of the data collection form is not required by law, but some method of information collection is necessary in order to comply with the statutory requirement to collect the assessment. In determining the information to collect, the Department considered the burden on business and proposes to request only the minimum information necessary to calculate the assessment on an annual basis. The economic impact on small businesses will result in quality assessments paid by them to the state that in the aggregate are expected to be approximately \$600,000 annually. Collection of the quality assessment is required by Public Law 186-2005.

#### **45 IAC 20**

SECTION 1. 45 IAC 20 IS ADDED TO READ AS FOLLOWS:

#### **ARTICLE 20. QUALITY ASSESSMENT ON HEALTH FACILITIES**

##### **Rule 1. General Provisions**

#### **45 IAC 20-1-1 Health facility quality assessment**

**Authority:** IC 6-8.1-3-3; P.L.186-2005

**Affected:** IC 16-21; IC 16-28; IC 23-2-4

**Sec. 1. (a)** As used in this article, “health facility” means a health facility that is:

- (1) licensed under IC 16-28 as a comprehensive care facility; and
- (2) not certified to participate in the federal Medicaid program under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

**(b)** Effective August 1, 2003, the department or its designee shall collect a quality assessment from each health facility as follows:

- (1) If the total annual facility census days are fewer than seventy thousand (70,000), ten dollars (\$10) per non-Medicare day.
- (2) If the total annual facility census days are equal to or greater than seventy thousand (70,000), two dollars and fifty cents (\$2.50) per non-Medicare day.
- (3) If the health facility is nonstate government owned or operated, two dollars and fifty cents (\$2.50) per non-Medicare day.

**(c)** The following health facilities shall be exempt from the quality assessment described in subsection (b):

- (1) A continuing care retirement community registered with the securities commissioner of the office of the secretary of state under IC 23-2-4.
- (2) A hospital-based nursing facility licensed under IC 16-21.
- (3) The Indiana Veterans' Home.

(d) The department or its designee shall notify each health facility of the amount of the facility's assessment after the amount of the assessment has been computed. If the facility disagrees with the computation of the assessment, the facility shall request an administrative reconsideration by the department or its designee. The reconsideration request shall be as follows:

- (1) In writing.
- (2) Contain the following:
  - (A) Specific issues to be reconsidered.
  - (B) The rationale for the facility's position.
- (3) Signed by the authorized representative of the facility and must be received by the department or its designee within forty-five (45) days after the notice of the assessment is mailed.

Upon receipt of the request for reconsideration, the department or its designee shall evaluate the data. After review, the assessment may be amended or the original decision affirmed. The department or its designee shall thereafter notify the facility of its final decision in writing, within forty-five (45) days of receipt of the request for reconsideration. In the event that a timely response is not made by the department or its designee to the facility's reconsideration request, the request shall be deemed denied and the provider may file a written appeal with the department. The appeal must be filed within thirty (30) days.

(e) For health facilities that are certified for participation in the Medicaid program under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.), the office of Medicaid policy and planning shall collect the quality assessment under 405 IAC 1-14.6-24. (*Department of State Revenue; 45 IAC 20-1-1*)

#### **45 IAC 20-1-2 Payment schedule**

Authority: IC 6-8.1-3-3; P.L.186-2005

Affected: IC 12-15-21-3; IC 16-28

Sec. 2. (a) The assessment shall be calculated on an annual basis with equal monthly amounts due on or before the tenth day of each calendar month.

(b) A facility may file a request to pay the quality assessment calculated under section 1 of this rule on an installment plan. The request shall be as follows:

- (1) In writing setting forth the facility's rationale for the request.
- (2) Submitted to the department or its designee.

An installment plan established under this section shall not exceed a period of six (6) months from the date of execution of the agreement. The agreement shall set forth the amount of the assessment that shall be paid in installments and include provisions for the collection of interest. The interest shall not exceed the percentage set out in IC 12-15-21-3(6)(A). (*Department of State Revenue; 45 IAC 20-1-2*)

#### **45 IAC 20-1-3 Failure to pay assessment; interest on amount due**

Authority: IC 6-8.1-3-3; P.L.186-2005

Affected: IC 12-15-21-3; IC 16-28

Sec. 3. A health facility that fails to pay the quality assessment due under section 1 of this rule within ten (10) days after the date the payment is due shall pay interest on the quality assessment at the same rate as determined under IC 12-15-21-3(6)(A). (*Department of State Revenue; 45 IAC 20-1-3*)

#### **45 IAC 20-1-4 Failure to pay assessment; referral for license revocation**

Authority: IC 6-8.1-3-3; P.L.186-2005

Affected: IC 16-28

Sec. 4. Not later than one hundred twenty (120) days after payment of the quality assessment was due, the department or its designee shall report each health facility that has failed to pay the quality assessment by the due date to the state

department of health to initiate license revocation proceedings. *(Department of State Revenue; 45 IAC 20-1-4)*

**45 IAC 20-1-5 Prohibition against charging assessment to residents**

**Authority:** IC 6-8.1-3-3; P.L.186-2005

**Affected:** IC 16-28

**Sec. 5. A health facility may not charge the facility's residents for the amount of the quality assessment that the facility pays under this article.** *(Department of State Revenue; 45 IAC 20-1-5)*

**45 IAC 20-1-6 Data collection**

**Authority:** IC 6-8.1-3-3; P.L.186-2005

**Affected:** IC 16-28

**Sec. 6. (a) The department or its designee shall determine the information and data necessary to do the following:**

- (1) Identify health facilities exempt from the quality assessment.**
- (2) Calculate the quality assessment due from nonexempt health facilities.**

**(b) Health facilities shall do the following:**

- (1) Provide all information and data requested on forms prescribed by the department or its designee.**
- (2) Complete the forms in accordance with the instructions provided by the department or its designee, including a certification that the data and information are true and accurate.**
- (3) Submit completed forms within thirty (30) days of a request from the department or its designee.**

*(Department of State Revenue; 45 IAC 20-1-6)*

**45 IAC 20-1-7 Appeals**

**Authority:** IC 6-8.1-3-3; P.L.186-2005

**Affected:** IC 16-28

**Sec. 7. (a) Following a denial of reconsideration, a health facility may pay the assessment or file a written appeal. If a hearing is required, the department shall do the following:**

- (1) Set the hearing at the department's earliest convenient time.**
- (2) Notify the person by United States mail of the time, date, and location of the hearing.**

**(b) After the hearing, or after making a decision on an appeal without a hearing, the department shall do the following:**

- (1) Issue a letter of findings.**
- (2) Send a copy of the letter through United States mail to the health facility that filed the appeal.**

**(c) If the health facility disagrees with a decision in a letter of findings, the decision may be appealed to the tax court. The appeal must be filed within forty-five (45) days after the date on which the letter of findings is issued by the department.**

*(Department of State Revenue; 45 IAC 20-1-7)*

***Notice of Public Hearing***

*Under IC 4-22-2-24, notice is hereby given that on February 23, 2006 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Department of State Revenue will hold a public hearing on a proposed new rule concerning collection of a quality assessment on health facilities.*

*In accordance with public notice requirements established at IC 4-22-2-24(d), the Department of State Revenue is imposing no requirements or costs in addition to those expressly required by Public Law 186-2005, other than annual completion of a one page data collection tool. Completion of the data collection form is not required by law, but some method of information collection is necessary in order to comply with the statutory requirement to collect the assessment. In determining the information to collect, the Department considered the burden on business and proposes to request only the minimum information necessary to calculate the assessment on an annual basis. Completion of the form is not expected to impose a significant burden on regulated entities because the information requested is not extensive or difficult to obtain from records kept in the normal course of business. For this reason, it is expected that completion of the form will not require a business to incur any additional costs.*

*Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room N248 and*

*Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

John Eckart  
Commissioner  
Department of State Revenue